

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

CHAPTER 218

## **HOUSE BILL 2681**

AN ACT

REPEALING SECTIONS 46-731 AND 46-732, ARIZONA REVISED STATUTES; AMENDING TITLE 46, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 46-731; MAKING A TRANSFER OF MONIES; RELATING TO UTILITY REPAIR AND DEPOSIT ASSISTANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 46-731 and 46-732, Arizona Revised Statutes, are repealed.

4 Sec. 2. Title 46, chapter 6, article 3, Arizona Revised Statutes, is  
5 amended by adding a new section 46-731, to read:

6 46-731. Utility assistance; qualified fuel fund entity; report;  
7 definitions

8 A. ON AN ANNUAL BASIS, A UTILITY SHALL TRANSMIT ALL ABANDONED DEPOSITS  
9 TO A QUALIFIED FUEL FUND ENTITY. THE QUALIFIED FUEL FUND ENTITY THAT  
10 RECEIVES ANY MONIES UNDER THIS SECTION SHALL PROVIDE ASSISTANCE TO ELIGIBLE  
11 RECIPIENTS IN MAKING UTILITY DEPOSITS AND OWNER REPAIRS OR REPLACEMENT OF  
12 UTILITY RELATED APPLIANCES OR SYSTEMS.

13 B. AN ABANDONED DEPOSIT SHALL BE TRANSMITTED TO A QUALIFIED FUEL FUND  
14 ENTITY. ANY UTILITY THAT DELIVERS THESE REFUND PAYMENTS TO A QUALIFIED FUEL  
15 FUND ENTITY IN GOOD FAITH IS RELIEVED OF ALL LIABILITY TO THE EXTENT OF ANY  
16 REFUND PAYMENT DELIVERED FOR ANY CLAIM THEN EXISTING OR THAT THEREAFTER MAY  
17 ARISE OR BE MADE IN RESPECT TO THE PROPERTY. THIS SUBSECTION DOES NOT APPLY  
18 TO ANY REFUND SUBJECT TO SECTION 44-302, SUBSECTION A, PARAGRAPH 11 OR TO ANY  
19 REFUND THAT THE COURT OR AGENCY ORDER PROVIDES WILL BE HELD BY A PERSON OTHER  
20 THAN THE UTILITY.

21 C. ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE QUALIFIED FUEL FUND  
22 ENTITY SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR, THE PRESIDENT OF THE  
23 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A  
24 COPY OF THIS REPORT TO THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES  
25 AND PUBLIC RECORDS. THE REPORT SHALL DESCRIBE THE ACTIONS AND EXPENDITURES  
26 OF THE QUALIFIED FUEL FUND ENTITY DURING THE PREVIOUS YEAR.

27 D. FOR THE PURPOSES OF THIS SECTION:

28 1. "ABANDONED DEPOSIT" MEANS A DEPOSIT, INCLUDING ANY INTEREST ON THE  
29 DEPOSIT, THAT IS MADE BY A SUBSCRIBER WITH A UTILITY TO SECURE PAYMENT OR ANY  
30 AMOUNT THAT IS PAID IN ADVANCE FOR UTILITY SERVICES TO BE FURNISHED, LESS ANY  
31 LAWFUL DEDUCTIONS OR ANY AMOUNT HELD BY A UTILITY THAT THE UTILITY HAS BEEN  
32 ORDERED TO REFUND BY A COURT OR ADMINISTRATIVE AGENCY, AND THAT REMAINS  
33 UNCLAIMED BY THE SUBSCRIBER FOR MORE THAN TWO YEARS AFTER THE TERMINATION OF  
34 THE SERVICES FOR WHICH THE DEPOSIT OR ADVANCE PAYMENT WAS MADE, OR FOR MORE  
35 THAN TWO YEARS AFTER THE REFUND BECOMES PAYABLE AND DISTRIBUTION OCCURS  
36 PURSUANT TO THE FINAL ORDER OF THE COURT OR ADMINISTRATIVE AGENCY THAT HAS  
37 JURISDICTION TO ESTABLISH THE TERMS AND CONDITIONS OF THE REFUND.

38 2. "QUALIFIED FUEL FUND ENTITY" MEANS A PRIVATE COMMUNITY-BASED  
39 NONPROFIT ENTITY THAT IS RECOGNIZED UNDER SECTION 501(c)(3) OF THE INTERNAL  
40 REVENUE CODE AND THAT HAS A FUEL FUND ESTABLISHED FOR THE PURPOSES OF  
41 ACCEPTING PRIVATE AND PUBLIC MONIES TO PROVIDE UTILITY ASSISTANCE PURSUANT TO  
42 SUBSECTION A OF THIS SECTION TO LOW INCOME RESIDENTS IN THIS STATE, INCLUDING  
43 MEMBERS OF AN INDIAN TRIBE WHO RESIDE ON AN INDIAN RESERVATION.

1           3. "UTILITY" MEANS A PERSON THAT, FOR PUBLIC USE, TRANSMITS, SELLS,  
2 DELIVERS OR FURNISHES ELECTRICITY, WATER, GAS, SEWER OR TELECOMMUNICATIONS  
3 SERVICES.

4           Sec. 3. Transfer of monies; utility assistance fund monies;  
5                   contract; exemption

6           A. All monies in the utility assistance fund established by section  
7 46-731, Arizona Revised Statutes, as repealed by section 1 of this act, that  
8 remain unexpended and unencumbered on the effective date of this act are  
9 transferred to the department of economic security for the purpose of  
10 entering into a contract by December 1, 2008 with a private community-based  
11 nonprofit entity that provides utility assistance pursuant to section 46-731,  
12 subsection A, Arizona Revised Statutes, as added by section 2 of this act.  
13 The contract shall be with a private community-based nonprofit entity that is  
14 recognized under section 501(c)(3) of the internal revenue code and that has  
15 a fuel fund established for the purposes of accepting private and public  
16 monies to provide utility assistance to low income residents in this state,  
17 including members of an Indian tribe who reside on an Indian reservation.  
18 The amount of the contract shall be equal to the entire amount transferred  
19 under this subsection.

20           B. The process of offering, approving and awarding the contract under  
21 subsection A is exempt from title 41, chapter 23, Arizona Revised Statutes,  
22 relating to government procurement.

APPROVED BY THE GOVERNOR MAY 17, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2007.